[श्री राम लखन सिंह यादव]

सुप्रीम कोर्ट के रिटायर्ड जज हैं। उनका काम सलाहकार बनना है। वह मीटिंग कर के आफिसर्स को सलाह देते हैं कि कैसे सहूलियत से, जल्दी-से-जल्दी इन कामों का निष्पादन किया जाए। असल में इस संबंध में जो काम करने का है और जो मेंबर सिदवाल कमेटी में हैं, वह हैं जस्टिस कुरेसी वह भोपाल हाईकोर्ट के जस्टिस हैं और उनका काम सभी केसेज को देखकर निपटारा करना है। उनको पूरी छूट है कि वह जितने जजों को चाहें रख सकते हैं, जितना चाहें रख सकते हैं दूसरे लोगों को जैसे मैंने कहा कि वकील को रखकर कर सकते हैं, जितनी जल्दी कर दें उनकी स्वेच्छा है। वह जितनी चाहें हम सहायता देते हैं और सब तरह से मदद करते हैं। इनके काम में कहीं रुकावट हम लोगों की ओर से नहीं है बल्कि जैसा माननीय सदस्य ने अभी कहा है, हम लोगों की भावना भी यही है कि जितनी जल्दी से जल्दी हो सके इस काम को करें लेकिन उनके काम में किसी प्रकार का हम इंटरफियरेंस नहीं करना चाहते ताकि उनको जो अधिकार दिया गया है, उसमें उनको कोई ऐतराज न हो। हम इस काम में काफी सतर्क हैं। लेकिन जैसा मैंने कहा कि उनको हाई कोर्ट के चीफ जस्टिस से भी बहुत मामले में सलाह लेनी पड़ती है, उनकी सलाह मानकर के आगे बढ़ते हैं। जजिस का सवाल उनके बिना नहीं हो सकता है, जो जजिस ट्रांसफर हो गए हैं, उनको भी रखने का अधिकार उन्हें नहीं, वह चीफ जस्टिस ही करेंगे। इसके अलावा जो सात साल के एक्सपीरिएंस्ड वकीलों को रखना है, उसका भी परमिशन वही देंगे। . . (व्यवधान)

श्री रजनी रंजन साहू : यह सब कठिनाइयां तो अध्यक्ष महोदय हैं लेकिन केन्द्र सरकार का इसमें क्या रोल है, इसकी क्या भूमिका है, कैसे इसका निबटारा करेगी, इसके बारे में कुछ बतायेंगे, कोई निश्चित अवधि देंगे—5 साल, 10 साल, 20 साल? केन्द्र सरकार की कोई भूमिका तो होनी चाहिए या अगर कोई भूमिका नहीं है तो बता दें कि कोई भूमिका नहीं है।

श्री राम लखन सिंह यादव : माननीय सदस्य का संभवतः यह विचार गलत है कि 10 साल, 20 साल या 50 साल इसमें लगेगा। स्वयं जो काम कर रहे हैं, वे उस कठिनाई को जानते हैं, जो नहीं करते हैं वे उस कठिनाई को महसूस नहीं करते हैं। जिस तरह के आज कम्प्लीकेशन्स पैदा हुए हैं और जिस तरह से इतनी बड़ी ट्रेजेडी हुई है, उसके लिए तीन साल की अवधि उन्होंने अब तक कहा है कि हम कर देंगे और तीन साल के अंदर में ही जितनी जल्दी यह काम हो सके उसके लिए पूरी सहायता हम करने को तैयार हैं और कर रहे हैं। हम रोज उस पर नजर रखते हैं। इसके अलावा माननीय सदस्य वहां के हमारे पचौरी जी हैं या माननीया सदस्या हैं या और माननीय सदस्य जो हैं, अगर वे चाहें और इसमें हमें और सहायता करें या सहूलियत का रास्ता बतायें कि किस रास्ते से चलकर जल्दी हो सकता है तो उसमें भी हम लाभ उठायेंगे।

श्री सुरेश पचौरी : एक मीटिंग बुला लीजिए लोकल एम. पीज. की।

श्री राम लखन सिंह यादव : माननीय सदस्य ने कहा है कि लोकल एम.पी.ज की बैठक बुला लीजिए, मैं बुला लूंगा।

*263. [*The Questioners (Shri Yerra Narayanaswamy and Shri V. Hanumantha Rao) were absent For answer vide Col. . . .infra.*]

*264. [*The Questioners (Shri Janardan Yedav and Shri Trilokinath Chaturvedi) were absent. For answer Vide Col... infra.*]

*265. [*The Questioner (Shri K. R. Malkani) was absent. For answer vide col. . . . . infra)*

Firing on trespassers on Defence establishments

*266. SHRI G. PRATHAPA REDDY:
DR. SHRIKANT RAMCHANDRA JICHKAR:†

Will the PRIME MINISTER be pleased to state:

(a) how many instances of firing by Defence personnel on trespassers on

†The Question was actually asked on floor of the House by Dr. Shrikant Ram Chandra Jichkar.

Defence establishments have taken place during the last one year;

(b) how many persons have been killed; and

(c) what was the nature of these encounters?

THE MINISTER OF STATE IN THE MINISTRY OF DEFENCE (SHRI MALLIKARJUN): (a) to (c) A Statement is laid on the Table of the House.

Statement

Three incidents of firing by the personnel of the Defence Security Corps (DSC) on trespassers in Defence Establishments have been reported during the last one year, in which two persons were killed. The details of these incidents are as under :—

(i) At 2140 hours on the 29th June 1993, one DSC guard on duty at the old site of the Material Organisation (Naval Depot), Visakhapatnam saw a person standing inside the perimeter. On closer observation, the guard found three more persons sitting on the perimeter wall of the Depot. When challenged, the persons sitting on the wall jumped out, while the person standing inside the perimeter wall threatened the sentry with an iron rod, and moved towards him. Finding the intruder not responding to the challenge, and apprehending danger to his own life, the guard opened fire. The injured person was brought to the hospital where he was declared 'brought dead'.

(ii) At 0130 hours on the 28th July, 1993, a DSC guard, while on duty at the Air Force Station, Kanpur spotted three persons stealing across the Taxi Track leading from 09 Dumbell to Hindustan Aeronautics Ltd. (HAL) trolly gate. On being challenged by the guard, they crawled away and hid behind the bushes, and threatened the guard that they would shoot him. When they tried to run away, the guard fired at one of them who died of the bulet injury. Metal scrap was found from the possession of the deceased intruder. The matter was reported to the civil police.

(iii) At about 0230 hours on the 23rd July, 1994 a DSC guard on duty at 09 Runway spotted seven persons entering the Air Force Station Kanpur by climbing over the Security wall. The guard challenged them and when they did not stop and started running, he fired at them. Due to the firing one person was injured-below the Knee and was subsequently apprehended. The other six person escaped by climbing over the wall. The injured person disclosed that their aim was to steal iron scrap from Hindustan Aeronautics Ltd. (HAL) Store. The matter was reported to civil police who are making efforts to apprehend the others.

DR. SHRIKANT RAMCHANDRA JICHKAR; Mr. Chairman, Sir, when the police open fire on people for the purpose of maintaining law and order and protecting life and property, a magisterial enquiry is held. In several instances, when there is a demand, a judicial enquiry is also ordered. But in the case of the Defence Security guards, when they open fire on trespassers on Defence establishments, the cases go unreported outside. Therefore, I would like to know from the hon. Minister as to what is the law which is applicable to such cases of firing and whether such establishments conduct any kind of enquiry.

SHRI MALLIKARJUN; Sir, so far as Defence matters are concerned, they are governed by the Army Act. Military instructions, security instructions are there.

The question is regarding the number of instances of firing on trespassers on Defence establishments. I have already mentioned in the statement that there were three such incidents. I have also narrated the incidents-how the trespassers came and why the guards opened fire. They are authorised to open fire. When they challenge the intruders and the intruders fail to respond, but counter challenge the guards, the guards are absolutely within their right to open fire.

So far as the comparison between the civilian police and the Defence Security Corps is concerned, I cannot say anything. It is for the law-makers to think about it. But as per the Army Act, it is provided for. To protect the property of the Government and also to protect his

own life, a guard can use his discretion and he is entitled to open fire.

MR. CHAIRMAN: Mr. Jichkar, please put your second supplementary.

DR. SHRIKANT RAMCHANDRA JICHKAR: Sir, my first supplementary has not been answered. We agree that he has got a right to fire—he is permitted. But I want to know whether the firing was justified, whether he has acted rightly or whether he has over-reacted and whether some kind of an inquiry is done at the Army level. I want to know whether there is some procedure whereby somebody in the Army inquiries into it. Otherwise , they will just go on firing.

SHRI MALLIKARJUN: Sir, if anybody over-reacts, he is liable to inquiry and whatever is the punishment, that is provided for. He may have fired in a situation of emergency. If the intruder is apprehended, he will be handed over to the civil police and also interrogated. If any guard misuses his powers, he is subjected to an inquiry, court martial and punishment.

DR. SHRIKANT RAMCHANDRA JICHKAR: Sir, the Defence estabilshments have a certain amount of awe, and people, fear these establishments. But the very fact that petty thieves are seen stealing Defence property in places like Kanpur and Visakhapatnam, suggests that there is something wrong with the security system of the Defence establishments. I want to know what steps will be taken by the Government to prevent such type of things.

SHRI MALLIKARJUN: Sir, instructions already exist so far as the security of the Defence establishments is concerned. But, in spite of that, certain incidents do occur. In order to steal scrap and other materials, some people enter into them and these trespassers or intruders are taken care of by the guards. Already there are security arrangements for the Defence establishments, to protect the ammunition depots and others. Adequate security arrangements are there, and at this stage they do not need any revamping.

SHRI V. NARAYANASAMY: Sir, about trespassers on Defence establishments, three cases have been reported by the hon. Minister. Actually, what happens in the areas where the Defence establishments exists, in some of the States the boards that exit there, especially on the compound wall side of the Defence establishment, are either in English or Hindi. The local people and the villagers who go by the side of the wall do not follow what it says, and there are cases of unprovoked firing by the Defence personnel. Those cases are referred to the Army Headquarters, because some innocent people are also killed. If you go through all the three cases, you will find that the man was simply challenged and killed by the Defence personnel. But killing should be the last resort. Because it was an Army area, the persons could have been taken into custody. Out of the three cases, especially the first case which the hon. Minister has mentioned, which happened on 29th June, 1993, was a case of unprovoked firing. Three people were there. Two people ran away and the third person who counter-challenged the guard was killed. Therefore, I want the hon. Minister to consider whether this case can be tried by a court martial for the purpose of finding out whether in this case there was an excess committed by the Army personnel.

SHRI MALLIKARJUN: Sir, the hon. Member has just referred to one case. There were three persons sitting on the perimeters and one person was inside the perimeter. When the guard had seen them, he went nearer. On seeing the guard, three persons jumped and ran away, and this person, who was inside, with an iron rod, counter-challenged the guard. In those circumstances, to protect his own life and also to protect the Government property, the guard had opened fire upon him.

SHRI V. NARAYANASAMY: I think, the Minister feels that he is convinced.

SHRI SURINDER KUMAR SINGLA: Sir, I appreciate that the Minister has given the details of the cases. I have some apprehension and I wonder whether the motive for trespassing on the Defence establishments centred round stealing the scrap only. Has it been completely established? If it has not been established, the

question is whether the motive was not really to steal some Defence secrets as such.

Secondly, do you consider three incidents in a year to be a large number or a small number? Do they really promot you to further strengthen the security

SHRI MALLIKARJUN: Sir, it is not a question of the number being large or small. An incident is an incident which ought to be checked up. Always it has been the constant effort of the esablishment to see that the security at the Defence establishments and installations is made more effective, and for that often guidelines are being issued and training etc. is being given.

Letter to MPs on the issue of Electoral Reforms Bill

*267. SHRI H. HANUMANTHAPPA: Will the PRIME MINISTER be pleased to state:

(a) whether Government's attention has been drawn to the news-item appearing in "The Times of India" oof 10th June, 1994 to the effect that Shri H. D. Shourie, Director of the Common Cause, had written a letter to Members of Parliament on the issue of Electoral Reforms Bill, recently;

(b) whether Government are aware of the contents thereof; and

(c) if so, what is Government's reaction thereto?

THE MINISTER OF STATE IN THE MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS (SHRI H. R. BHARDWAJ): (a) Yes, Sir.

(b) and (c) It has been *inter-alia* stated in the letter that the then proposed move to amend the Constitution to provide for transaction of business of the Commission by consensus and failing which by majority would be tantamount to altering the basic character of the constitution and would create an impression amongst people that it is being done to clip the wings of the Chief Election Commissioner. The Government does not agree with this view.

SHRI H. HANUMANTHAPPA: What is the present position of the Commision? Is it functioning as a single-member Commission or a multi-member Commission? How is it functioning as on today?

SHRI H. R. BHARDWAJ: I would like to bring to the notice of the House that pursuant to the demand of the entire Opposition, the Government agreed to make it a multi-member Commission. Two Members were added. Thereafter, this House and the other House were pleased to pass a law relating to the conditions of service of the Chief Election Commissioner and the Election Commissioners. After that law was made, it was challenged, and the Supreme Court is seized of the matter. The law was challenged by the Chief Election Commissioner himself. So, that is the position with regard to the implementation of the earlier law.

So far as this Constitutional amendment which is the subject-matter of Mr. Shourie's letter is concened, we had many rounds of discussion with the Opposition, but, when we found that some sort of misunderstanding about our intention was being created, we did not introduce that Bill. We want to bring about a consensus. There is no question of clipping anybody's power because it is a question of an institution which we respect more than anybody else. We would like to strengthen it in whatever manner on which we could all agree, and we can do better in the holding of elections in the country. Therefore, I would like to repel in the strongest terms this misunderstanding that anybody is interested in clipping the wings of Mr. Seshan or any other Commissioner. We are going to go through consensus only. Whatever Government does, it does by consensus.